

Applicant: Schubert et al.  
 Application No.: 10/682,223  
 Amendment  
 Page 2

### REMARKS

This response is being submitted in view of the Office Action dated October 11, 2006, wherein the examiner rejected all of the claims. Specifically, the examiner rejected the claims as being obvious based upon U.S. Publication No. 2003/0118902 to Schubert et al. in view of U.S. Patent Nos. 6,236,205 to Chen et al.; 4,804,595 to Bakos et al.; and 4,501,805 to Yasuda et al. Notably, all of the examiner's rejection rely upon Schubert as the primary reference and at least Chen as a secondary reference.

The applicants respectfully traverse the examiner's rejections in view of the enclosed affidavit submitted pursuant to 37 CFR § 1.132. In essence, the combination of Schubert and Chen, as applied by the examiner, would not be utilized by one of ordinary skill in the art because of the disparity in elongation to break values stated by the respective references. In particular, as stated in the final sentence of paragraph 0064 of Schubert (and elsewhere in the reference, as well as the enclosed affidavit), elongation to break values that are too low would cause the Schubert seal to rupture prematurely. Additionally, one of ordinary skill in the art would perceive the salient feature of Chen's sealing capabilities to be its beaded structure, rather than the specific material disclosed therein, such that one of ordinary skill in the art would lack the motivation to consider the Chen material. Lastly, Dr. Schubert's affidavit clarifies that the combination proposed by the examiner is not a trivial or easily arrived upon matter, and it is submitted that Dr. Schubert's experience as one of the inventors in the cited reference as well as the current application makes him well-situated to opine regarding the matter.

In few of the foregoing, reconsideration and allowance of the claims of record is hereby requested.

Respectfully submitted,

Date: 3/12/07

  
 Robert C. Baraona  
 Registration No. 45,426  
 Eveready Battery Company, Inc.  
 25225 Detroit Road  
 P.O. Box 450777  
 Westlake, OH 44145  
 (440) 835-7632